

1 HILLIS CLARK MARTIN & PETERSON P.S.
2 1221 Second Avenue, Suite 500
3 Seattle, Washington 98101-2925
4 Telephone: (206) 623-1745
5 Facsimile: (206) 623-7789

Hon. Randall L. Dunn
Chapter: 11
Location: Portland

6
7
8 Attorneys for Secured Creditor
9 Umpqua Bank
10
11

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON
AT PORTLAND

In re:
EVERGREEN VINTAGE AIRCRAFT, INC.,
Debtor.

No.: 14-36770-rld11

**OBJECTION TO WORLD FUEL'S
MOTION TO POSTPONE VALUATION
HEARING**

I. INTRODUCTION

Less than 24 hours before the valuation hearing in this matter, World Fuel requests a postponement. The basis for World Fuel's request is meritless, and is little more than an attempt to delay Debtor from entering into a reasonable settlement agreement.

World Fuel's motion should be denied, and the hearing should proceed as scheduled. Any postponement would jeopardize the proposed settlement.

II. ARGUMENT

From the time that World Fuel asserted its claims in this bankruptcy, it has known that it will need competent evidence to support its claimed value for the DeHavilland DH-4 airplane. At the May 19 hearing, the Court set a May 28 valuation hearing, putting the parties on notice that they need admissible evidence about the aircraft's value.

1 Less than one day before that scheduled hearing, World Fuel now asks for a
2 postponement (without identifying a new proposed date). It does so on the basis that the
3 appraiser who conducted an appraisal three years ago for another entity has pneumonia.
4 Tellingly, World Fuel does not state whether it has in fact retained Mr. Dufour. Indeed, it
5 does not provide any evidence that it has even *spoken* to Mr. Dufour, or that he or his firm (or
6 any other firm) is willing to testify for World Fuel.

7 In addition to being untimely and a result of its own neglect, World Fuel's request for
8 a postponement is futile. Debtor will present testimony by Gordon Page of Air Assets
9 International, who reviewed the aircraft and conducted a thorough appraisal before arriving at
10 a \$525,000 liquidation value. If World Fuel was able to retain Mr. Dufour to testify, the
11 basis of his testimony would be the proffered appraisal. Yet Mr. Dufour admits that he has
12 never even *inspected* the DeHavilland. (ECF 94 Ex. 1 at 14) ("The aircraft asset, which is the
13 subject of this appraisal, was not physically inspected (audited) by AMC\Value\$ for physical
14 existence, condition, conformity, specific characteristics, verification of installed equipment,
or quality determination.")

15 As a result, Mr. Dufour's appraisal is based on so many erroneous assumptions, some
16 of which are summarized below, that it is worthless:

- 17 • The 2012 appraisal assumes that the DeHavilland is airworthy. It is not.
- 18 • The 2012 appraisal is stale: as Mr. Dufour states, "prices are negatively
19 impacted when an aircraft has been out-of-service for prolonged periods."
(ECF 94 Ex. 1 at 19.)
- 20 • Mr. Dufour describes the highest and best use as "an airworthy and operating
21 corporate / executive / VIP configured aircraft which is in compliance with all
22 United States civil aviation regulations." (*Id.* at 14.) Yet the appraisal admits
23 that the aircraft is not "in compliance with all United States civil aviation
24 regulations". The aircraft is a 97-years old single-seat, open-cockpit with a top
25 speed of 128 MPH and range of 400 miles and is not fit for a corporate jet.
- 26 • The 2012 appraisal claims that the value of the aircraft is over four and one-
half times the value of the last DH-4 sold on the open market.

1 Accordingly, even if World Fuel were to retain Mr. Dufour and have him testify, there
2 is no reason to believe that the DeHavilland's value is any greater than the \$525,000
3 liquidation value to which Mr. Page will testify.

4 Conversely, any additional delay jeopardizes the settlement carefully crafted by Judge
5 Perris over three long days of mediation. It is essential that the transactions contemplated by
6 the settlement fund and close before the end of the second quarter 2015. The delay suggested
7 by World Fuel hampers such a timely closing, which may speak to its actual motivation for its
8 motion.

9 **III. CONCLUSION**

10 World Fuel's failure to obtain an appraiser is a result of its own neglect. World Fuel's
11 Motion should be denied, and the valuation hearing should proceed as scheduled.

12 DATED May 27, 2015.

13 **HILLIS CLARK MARTIN & PETERSON P.S.**

14 By /s/Joseph A.G. Sakay

15 Joseph A.G. Sakay, OSB #021734
16 Brian C. Free, OSB #142077
17 Eric D. Lansverk, OSB #144700
18 Hillis Clark Martin & Peterson P.S.
19 1221 Second Avenue, Suite 500
20 Seattle, Washington 98101-2925
21 Tel.: (206) 623-1745 Fax: (206) 623-7789
22 E-Mail: joe.sakay@hcmp.com;
23 brian.free@hcmp.com; eric.lansverk@hcmp.com
24 Attorneys for Umpqua Bank

1 HILLIS CLARK MARTIN & PETERSON P.S.
2 1221 Second Avenue, Suite 500
3 Seattle, Washington 98101-2925
4 Telephone: (206) 623-1745
5 Facsimile: (206) 623-7789

Hon. Randall L. Dunn
Chapter 11 Proceeding
Location: Portland

6
7
8
9
10 Attorneys for Secured Creditor
11 Umpqua Bank

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re:

Case No. 14-36770-rlld11

EVERGREEN VINTAGE AIRCRAFT, INC.,

CERTIFICATE OF SERVICE

,

Debtor.

I hereby certify that on 27th day of May, 2015, I electronically filed the Objection of Umpqua Bank to World Fuel's Motion to Postpone Valuation Hearing and this Certificate of service with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- Nicholas J. Henderson nhenderson@portlaw.com; csturgeon@portlaw.com; tsexton@portlaw.com; atrauman@portlaw.com
- Wendell G. Kusnerus wendellkusnerus@dwt.com; lizcarter@dwt.com; pdxdocket@dwt.com
- James P. Laurick jlaurick@kilmerlaw.com; tparcell@kilmerlaw.com
- Justin Leonard jleonard@LLC-LLC.com; ecf@ml-llp.com; jleonard@pacernotice.com
- Jeffrey C. Misley jeffm@sussmanshank.com;

Certificate of Service- 1

HILLIS CLARK MARTIN & PETERSON P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98101-2925
Telephone: (206) 623-1745
Facsimile: (206) 623-7789

1 ecf.jeffrey.misley@sussmanshank.com
2

- Teresa H. Pearson teresa.pearson@millernash.com; lisa.conrad@millernash.com; brenda.hale@millernash.com
- Alex I Poust apoust@schwabe.com; docket@schwabe.com; ecfpdx@schwabe.com
- Bradford J. Sandler bsandler@pszjlaw.com
- Troy Sexton tsexton@portlaw.com; nhenderson@portlaw.com; csturgeon@portlaw.com; mmyers@portlaw.com
- Carolyn G. Wade carolyn.g.wade@doj.state.or.us
- Britta E. Warren bew@bhlaw.com; hkt@bhlaw.com
- US Trustee, Portland USTPRegion18.PL. ECF@usdoj.gov

7 DATED May 28, 2015 at Seattle, Washington.
8

9 /s/Joseph A.G. Sakay
10

Joseph A.G. Sakay, OSB No.
11 HILLIS CLARK MARTIN & PETERSON, P.S.
12 1221 Second Avenue, Suite 500
13 Seattle, Washington 98101-2925
Telephone: (206) 623-1745
Facsimile: (206) 623-7789
14 Attorneys for Umpqua Bank
15
16
17
18
19
20
21
22
23
24
25
26

ND: 20411.005 4837-7262-9284v1

Certificate of Service - 2

HILLIS CLARK MARTIN & PETERSON P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98101
Telephone: (206) 623-1745
Facsimile: (206) 623-7789